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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
53,694	07/02/79	Frederick F. Bueschel	09947

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Gateway I, Ste. 2404  
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EXAMINER	
C.D. Crowder	
ART UNIT	PAPER NUMBER
337	4

DATE MAILED:

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

MAILED

JUN - 3 1980

CLERICAL BRANCH  
GROUP 330

This application has been examined.  Responsive to communication filed on \_\_\_\_\_

A shortened statutory period for response to this action is set to expire \_\_\_\_\_ month(s), 30 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1.  Notice of References Cited, Form PTO-892. 2.  Notice of Informal Patent Drawing, PTO-948.  
3.  Notice of Informal Patent Application, Form PTO-152. 4.  \_\_\_\_\_

Part II SUMMARY OF ACTION

1.  Claims 1-39 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2.  Claims \_\_\_\_\_ have been cancelled.

3.  Claims \_\_\_\_\_ are allowed.

4.  Claims \_\_\_\_\_ are rejected.

5.  Claims \_\_\_\_\_ are objected to.

6.  Claims 1-39 are subject to restriction or election requirement.

7.  The formal drawings filed on \_\_\_\_\_ are acceptable.

8.  The drawing correction request filed on \_\_\_\_\_ has been  approved.  disapproved.

9.  Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has  
 been received.  not been received.  been filed in parent application, serial no. \_\_\_\_\_

filled on \_\_\_\_\_

10.  Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

11.  Other

(1)        Restriction to one of the following inventions is required under 35 USC 121:

I.    Claims 1-13, 17-32 and 36-38 drawn to a prosthesis including track means for constraining motion of a bearing insert for class 3, subclass 1.911.

II.   Claims 14-16 and 33-35 drawn to a prosthesis including a bearing surface having a plurality of surface segments defined by rotating a common plane generating curve about a plurality of parallel axes of rotation for class 3, subclass 1.911.

(2)        Claim 39, a multiple dependent claim, will be examined with the elected group.

(3)        The inventions are distinct because neither requires the other in order to be functional as a prosthetic implant.

(4)        The inventions have separate status in the art since a worker in the art seeking to improve the tibial bearing insert would not necessarily be involved with an improvement on the femoral bearing member and vice versa.

(5)        Because these inventions are distinct and have separate status in the art, restriction is deemed proper.

(6)        A complete response must include a provisional election even though the requirement is traversed. See 37 CFR 1.143.

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703-557-3501  
5/29/80

  
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EXAMINER  
GROUP ART UNIT 337